

Wireless Communication and the City of Muskegon

The City of Muskegon regulates wireless communication towers in its zoning ordinance through the use of an overlay zone. The City recognizes that siting towers is more dependent on topography and proximity to major transportation routes than a particular zoning district. The City has established several sites where cellular towers may be placed under Special Use Permit. Collocation is required. A special use permit is issued by the Planning Commission.

The second, more preferred scenario is placement of wireless antenna as an accessory use. These are permitted in any zoning district on structures over 5 stories in height and on existing utility or light poles.

See attached ordinance language for more details.

For further Information:

Zoning questions: Contact the Zoning Administrator, 231-724-6702

Building permit questions: Contact the Building Inspector, 231-724-6715

Towers and antenna on City Property: Contact the DPW Director, 231-724-4100

Cellular Tower Regulations

Adopted December 9th, 1997

Definitions

Colocation: The use of a wireless telecommunication support facilities by more than one wireless telecommunication provider

Lattice tower: A support structure constructed of vertical metal struts and cross braces, forming a triangular or square structure which often tapers from the foundation to the top.

Monopole: A support structure constructed of a single, self-supporting hollow metal tube securely anchored to a foundation.

Wireless Communication Antenna (WCA): Any antenna used for the transmission or reception of wireless communication signals excluding those used exclusively for dispatch communications by public emergency agencies, ham radio antennas, satellite antennas, those which receive video programming services via multipoint distribution services which are one meter (39 inches) or less in diameter and those which receive television broadcast signals.

Wireless Communication Equipment Shelter: The structure, shelter, cabinet or vault in which the electronic receiving and relay equipment necessary for processing wireless telecommunications is housed together with necessary related equipment such as radios, cable, conduit, connectors, air conditioning units and emergency generators.

Wireless Communication Facilities (WCF): All structures and accessory facilities relating to the use of the radio frequency spectrum for the purpose of transmitting or receiving radio signals and may include, but is not limited to radio towers, television towers, telephone devices and exchanges, micro-wave towers, and commercial mobile radio service facilities. Citizen band radio facilities, short wave facilities, ham, amateur radio facilities, and satellite dishes, and governmental facilities which are subject to state or federal law or regulations which preempt municipal regulatory authority are not included in this definition.

Wireless Communication Support Facilities (WCSF): A monopole, guyed, or lattice type tower designed for the attachment of or as support for wireless communication antennas or other antennas.

General Provisions

SECTION 2321: WIRELESS COMMUNICATION SERVICE FACILITIES [amended 12/97]

This section provides for appropriate areas for the siting of wireless communication antenna, support facilities and equipment shelters in recognition of the public need and demand for advanced telecommunication and information technologies and services balanced against the impacts such facilities may have on properties within the City. It is the further purpose and intent of these regulations to:

1. Provide for the appropriate location and development criteria for wireless communication support facilities and wireless communication antenna within the City
2. Allow and encourage the location of wireless communication support facilities in the overlay zoning district
3. Minimize the adverse effects of such facilities through careful design, siting and screening criteria
4. Maximize the use of existing and future wireless communication support facilities and encouraging multiple uses and co-location of such facilities
5. Protect the character of residential areas throughout the City from the effects of wireless communication facilities
6. Promote the public health, safety, and welfare.

Uses Permitted:

Wireless Communication Antenna (WCA) shall be considered a permitted accessory use in any zoning district when:

1. Placed on or attached to any existing structure at least five (5) stories in height which constitutes a principle use, including existing communication towers and water towers provided: [amended 4/02]
 - a. In the case of a five (5) story building, that any WCA shall not extend more than thirty (30) feet above the roofline of the structure to which it is attached.
 - b. In the case of a six (6) story building, that any WCA shall not extend more than forty (40) feet above the roofline of the structure to which it is attached.
 - c. In the case of a seven (7) story building, that any WCA shall not extend more than fifty (50) feet above the roofline of the structure to which it is attached.
 - d. In the case of an eight (8) story building, that any WCA shall not extend more than sixty (60) feet above the roofline of the structure to which it is attached.

- e. In no case shall any WCA extend more than sixty (60) feet above the roofline of the structure to which it is attached.
- 2. Placed on an existing utility or light pole which will serve as a wireless telecommunications facility and where the height of said existing pole or other structure is not increased more than twenty (20) feet and the existing pole and other structure is not proposed to be modified in a manner which would materially alter the pole or structure and/or result in an impairment of sight lines or other safety interest.

Provided:

- 1. WCAs shall require no personnel on the premises except as necessary for maintenance and repair.
- 2. All WCAs shall be designed to blend into or meet the aesthetic character of the principal (primary) structure where reasonably practical taking into consideration the location of the WCA and the line of sight angle and distance from the right-of-way and neighboring uses.
- 3. A WCA proposed to be located on a historic landmark or in a designated historic district may be denied if the WCA would create an adverse impact on the historic character of the historic landmark or district.
- 4. Associated wireless telecommunication equipment shelters meet accessory use height and setback requirements of the district, and receive administrative approval.
- 5. This section shall not exempt the applicant from such other government review and permitting procedures of the Federal Communications Commission or Federal Aeronautics Administration.

Overlay District Established for Wireless Communication Support Facilities [amended 6/06]

Intent: An overly zone is hereby created for the siting of wireless communication facilities (WCF) and wireless communication antenna (WCA). The zone is identified as:

- 1. The Pulaski Lodge, 871 Pulaski Avenue described as:
W 589 ft of E 757 ft of N 10 acres of SE ¼ of SE ¼ exc N 25 ft thereof Sec 37 T10N R17W.
- 2. City of Muskegon That Part of NE 1/4 of SE 1/4 Sec 33 T10N R16W Lying S of Consumers Power Co 100 Ft R/W W Of US 31 State Hwy E Of Relocated C & O R R R/W & N Of Little Black Creek
- 3. City property near the terminus of Yuba Street, described as:
Lot 1 Blk 1 & that part of Lot 3 Blk 1 & N ½ of SE ½ Sec 17 T10N R16W lying Sly & Ely of Muskegon River & Nly of US 31 business rte and Lots 1, 2 & 3 Blk 121.
- 4. A portion of the Muskegon Community College campus, 221 S. Quarterline Road, described as:
Commencing at the S ¼ corner of Section 15, T10N, R16W, City of Muskegon, Muskegon County, Michigan, thence N 01°04'25" E 815.71 feet along the N-S ¼ line of

said Section 15 and the centerline of Quarterline Road (66 feet wide); thence N 88°56'41" W 1035.89 feet to the Point of Beginning; thence continuing N 88°56'41" W 60.00 feet; thence N 01°03'19" E 60.00 feet; thence S 88°56'41" E 60.00 feet; thence S 01°03'19" W 60.00 feet along the West face of an existing building to the point of beginning being a part of the SW ¼ of Section 15, T10N, R16W, City of Muskegon, Muskegon County, Michigan, and containing 0.083 acres or 3600 sq. ft. of land, more or less, subject to easements and restrictions of record, if any. [amended 11/00]

Wireless communication support facilities are permitted as special land uses in the overlay zone and shall be permitted under the purview of Section 2332 after review and approval of the use by the Planning Commission, after public hearing, subject to the applicable conditions imposed by the Planning Commission:

1. The facility shall comply with all applicable Federal Aeronautics Administration and the Federal Communications Commission requirements.
2. All WCSF shall be constructed in compliance with all applicable construction codes, including, without limitation, the Electronic Industries Association/Telecommunications Industry Association (EIA/TIA) Structural Standards of Steel Antenna Towers and Antenna Supporting Structures and shall be certified as such by a licensed structural engineer.
3. Accessory equipment storage structures shall meet the setback and height requirements of the underlying zone. No accessory equipment or structure shall be allowed in any rights-of-way.
4. The WCSF shall not be used for advertising purposes and shall not contain any signage except which shall show the identity of the service provider and emergency telephone numbers. The sign or signs shall not exceed two square feet in size, and shall be easily readable from ground level.
5. The WCSF may be located on a zoning lot containing permitted other principal uses or approved special uses.
6. The WCSF may be located within an area smaller than the minimum lot size of the underlying zoning district. The area within which the WCSF is located shall be the area subject to the requirements of this section, rather than the entire zoning lot, unless otherwise provided herein, or reasonably required by the planning commission.
7. Existing vegetation (trees and shrubs) shall be preserved to the maximum extent possible. The WCSF shall have a landscaped buffer so that the base of the WCSF and accessory equipment structure or storage area shall be screened from any right-of-way, residential use, or residential zoning district. Such landscaped buffer shall be placed on the site in a manner which will maximize the aesthetic and environmental effects, while at the same time providing the required visual buffer. The landscaped buffer shall consist of hedges planted leaf to leaf which shall reach a height of not less than six (6) feet at maturity and

conifer trees planted on fifteen (15) foot centers along the approved buffer. Requirements may be modified by the Planning Commission as appropriate for the specific site.

8. The application shall contain information showing the geographic search area within which the proposed WCSF must be located and shall also provide locations of all structures of similar height within and adjacent to the search area.
9. WCSFs shall not have a shiny or metallic finish.
10. The WCSF shall not exceed 200 (two-hundred) feet in height.
11. If located on the same zoning lot with another permitted use, the WCSF shall not be located in a front yard abutting a street.
12. Legal access to the WCSF shall be provided regardless of other developments that may take place on the property.
13. Towers shall not be artificially lighted unless required by the FAA. When lighting is required by the FAA or other federal or state authority, it shall be oriented inward so as not to project onto surrounding property or the site shall be landscaped to mitigate light impact.
14. All exterior building material shall be compatible with surrounding structures but in no case shall they be cinder or cement block, and metal, other than aluminum siding. Towers shall be enclosed by security fencing not less than six feet in height.
15. Monopoles may be required by the Planning Commission if it is deemed to be more aesthetically compatible with the area than a lattice pole.
16. Antenna and metal towers shall be grounded for protection against a direct strike by lightning and shall comply as to electrical wiring and connections with all applicable state and local statutes.
17. Tower owners shall provide maintenance and safety reports to the city's building official.
18. Proof of responsibilities in the case of abandonment shall be submitted with the application.

Replacement of Existing WCSFs:

1. The replacement WCSF shall not exceed a total height of 200 (two-hundred) feet or, if the existing WCSF has an approved height greater than 200 (two-hundred) feet, the replacement WCSF shall not exceed the approved height.
2. The replacement WCSF shall be located within the same zoning lot as the existing WCSF and shall be located to comply with existing minimum yard requirements.

3. The existing WCSF shall be removed within 90 days of completion of the replacement WCSF and the relocation or installation of the WCA.
4. If the location of the replacement WCSF is such that the existing WCSF must be moved before the replacement WCSF is constructed, temporary portable antennae support facilities may be used, but must be removed within 30 days of the completion of the replacement WCSF and the relocation or installation of the WCA.

Review Criteria for new WCSFs:

1. A new WCSF shall not be approved unless it can be demonstrated by the applicant that there is a need for the new WCSF which cannot be met by placing WCA on an existing WCSF or on other structures or replacement of an existing WCSF. Information concerning the following factors shall be considered in determining that such need exists:
 - a. Insufficient structural capacity of existing WCSFs or other suitable structures and inability to reinforce or replace an existing WCSF
 - b. Unavailability of suitable locations to accommodate system design or engineering on existing WCSF or other structures
 - c. Radio frequency interference or other signal interference problems at existing WCSF or other structures
 - d. The cost of using an existing WCSF or other structure exceeds the costs of permitting and constructing a new WCSF
 - e. Other factors which demonstrate the reasonable need for the new WCSF.

Co-location Required:

1. The applicant must include in the application an affidavit stating space on a proposed tower will be made available to future users when technically possible.
2. The applicant shall send a written notice via certified mail to all potential users of the new WCSF offering an opportunity for co-location. The list of potential users shall include those entities that have requested approval of WSCF in the past, current FCC license holders, and any other entities requesting to be included on the list. Copies of the notice letters shall be provided to the City at the time the application is filed. If, during a period of 30 days after the notice letters are sent to potential users, a user or users request, in writing, to co-locate on the new WCSF, the applicant shall accommodate the request(s), unless co-location is not reasonably possible based on the criteria of this subsection.

Removal of Abandoned WCSFs:

All providers owning a wireless telecommunications support facility shall notify the zoning administrator when the use of said tower located in the municipality will be discontinued and the date it will cease. Any WCSF which is abandoned shall be removed or demolished within 90 days of abandonment. For the purposes of this section, abandoned shall mean that no WCA or other commercial antenna has been operational and located on the WCSF for 180 days or more. Where a WCSF is abandoned but not removed or demolished as required, the City may remove or secure the removal of the facility or required portions thereof, with its actual cost and reasonable administrative charge to be placed on the property. A lien on the property shall be superior to all other liens except taxes.